

# Residual Anxieties – A Reply to Ralf Michaels

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Ralf Michaels [describes me](#) as having "taken offense" to [his claim](#) about eternal supremacy of Germany in doctrinal scholarship. I wish immediately to clarify that I was not offended at all by his claim; I merely found it to be highly implausible, and rooted in a kind of historical or cultural determinism that is, to say the least, questionable. Now, however, [Michaels in his response](#) considerably revises his assertion, and says he rejects cultural determinism. The key proposition instead is that the average German legal scholar is likely to be a better doctrinalist than the average American scholar, and conversely the average American scholar is likely to be better at interdisciplinary, non-doctrinal scholarship than her average German counterpart. This is a different claim, and it seems to be about the present, and not a statement about what must or will be true always. I'm not sure how it could be verified – or indeed refuted. But at least as long as a scholar does not think of herself as "average" it allows that it may be entirely legitimate for her not to limit her ambition in legal scholarship to some stereotypical conception of what the folk-mind is supposedly good at.

But then Michaels goes on to make the normative claim that "we" should play to our strengths, both Americans and Germans. Here though "strengths" seems just to mean what the average scholar today in each country is supposedly better at. That, however, seems an odd benchmark to determine scholarly aspiration: shouldn't one be aiming for excellent rather than average? In a way, Michaels' position seems like a misapplication of the theory of comparative advantage in trade developed by [David Ricardo](#): Portugal should be producing wine and England cloth. But does this really work for doctrinal and interdisciplinary scholarship? Ricardo assumed that, at a given price consumers from each country would be indifferent as to where they buy the one commodity or the other. German doctrinal scholarship is not exactly a commodity like wine or cloth. It is not as if Americans are going to buy their doctrinal scholarship from Germany (it is about another legal system and mostly in German, obviously international law being an exception); on the other hand, some forms of interdisciplinary scholarship from the US may well be exportable to Germany.

Further, why not move "the constraints of cultural and institutional traditions" rather than simply bow to them as barriers? Anyone familiar with the intellectual history of Germany will see how its scientific culture has changed sometimes even in radical and destabilizing ways in certain periods. Is this the residual anxiety that is leading Michaels to suggest to Germans that they live with rather than fight against the postwar "cultural and institutional traditions"? I somehow feel that what is really behind Michaels' conservatism or Burkean caution is not yet on the table in this debate.

